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Thomas K. Barton and Madhu Ranganathan

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

13 GERALD DULL, Individually and on Behalf) Case No. C-09-0222-CW
of All Others Similarly Situated,)
14 Plaintiff,) CLASS ACTION
15 v.)
16 RACKABLE SYSTEMS, INC., THOMAS) **STIPULATION AND ORDER
17 K. BARTON, and MADHU) REGARDING SCHEDULING AND
RANGANATHAN,) RELATED MATTERS AS MODIFIED
18 Defendants.)
19)**

1 Pursuant to Federal Rules of Civil Procedure 16 and 42, Civil L.R. 23-1(b), and the
2 Manual for Complex Litigation, Fourth §§ 11.12, 11.21 and 31 (2004), the parties stipulate, and
3 the Court hereby orders, as follows:

4 **CONSOLIDATION OF RELATED CASES AND ALL FUTURE RELATED CASES**

5 1. All related actions that are currently or subsequently filed in, or transferred to, this
6 District shall be consolidated into this action for pretrial purposes. This Order shall apply to
7 every such related action, absent order of the Court. A party that objects to such consolidation, or
8 to any other provision of this Order, must file an application for relief from this Order within
9 thirty (30) days after the date on which a copy of the order is mailed to the party's counsel.

10 2. As of this date, no related actions have been filed in this District.

11 3. This Order is entered without prejudice to the rights of any party to apply for
12 severance of any claim or action, for good cause shown.

13 **MASTER DOCKET AND CAPTION**

14 4. The docket in Civil Action No. C-09-0222-CW shall constitute the Master Docket
15 for this action.

16 5. Every pleading in this proceeding shall bear the following caption:

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

19 IN RE RACKABLE SYSTEMS, INC.) Case No. C-09-0222-CW
20 SECURITIES LITIGATION)
_____)
_____)

21 THIS DOCUMENT RELATES TO:) **CLASS ACTION**

22 _____)
_____)

23 6. The file in Civil Action No. C-09-0222-CW shall constitute a Master File for any
24 and all actions consolidated into this action. When a pleading is intended to be applicable to all
25 actions to which this Order is applicable, the phrase "All Actions" shall appear immediately after
26 the words "This Document Relates To:" in the caption set out above. When a pleading is
27 intended to be applicable only to some, but not all, of such actions, the document shall list,
28 immediately after the phrase "This Document Relates To:", the docket number for each

1 individual action to which the document applies, along with the last name of the first-listed
2 plaintiff in any such action.

3 7. The parties shall file a Notice of Related Cases pursuant to Civil L.R. 3-12
4 whenever a case that should be consolidated into this action is filed in, or transferred to, this
5 District. If the Court determines that the case is related, the clerk shall:

6 a. Place a copy of this Order in the separate file for such action;

7 b. Serve on plaintiff's counsel in the new case a copy of this Order;

8 c. Direct that this Order be served upon any new defendant(s) in the new

9 case; and

10 d. Make the appropriate entry in the Master Docket.

LEAD PLAINTIFF'S COUNSEL

12 8. After the Court has designated a Lead Plaintiff and Lead Plaintiff's Counsel,
13 pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v), Lead Plaintiff's Counsel shall have authority to speak
14 for, and enter into agreements on behalf of, plaintiffs in all matters regarding pretrial procedures,
15 discovery, and settlement negotiations. Lead Plaintiff's Counsel shall manage the prosecution of
16 this litigation to avoid duplicative or unproductive activities. Lead Plaintiff's Counsel shall be
17 responsible for coordination of all activities and appearances on behalf of plaintiffs and for
18 dissemination of notices and orders. Lead Plaintiff's Counsel shall maintain a master service list
19 of all parties and counsel.

20 9. Defendants' counsel may rely upon agreements made with Lead Plaintiff's
21 Counsel. Such agreements shall be binding on all plaintiffs. Service on Lead Plaintiff's Counsel
22 shall constitute service on all plaintiffs.

PLEADINGS AND MOTIONS

24 10. Defendants are not required to respond to the complaint in this action or any action
25 consolidated into this action, other than a consolidated complaint or a complaint designated as the
26 operative complaint by Lead Plaintiff's Counsel. Defendants have authorized their respective
27 counsel to accept service of the initial complaints, but acceptance of service will not constitute a
28 waiver of any defenses.

1 11. Lead Plaintiff shall file a consolidated complaint within sixty (60) days of the
2 entry of an order appointing Lead Plaintiff and Lead Counsel in this consolidated action, unless
3 otherwise agreed upon by the parties. The consolidated complaint shall supersede all existing
4 complaints filed in this consolidated action.

5 12. Defendants shall respond to the consolidated complaint within forty-five (45) days
6 after service (or, in the event that Lead Plaintiff's Counsel designates an existing complaint as the
7 operative complaint, within forty-five (45) days after service of written notice of such
8 designation), unless otherwise agreed upon by the parties. If defendants file any motions directed
9 at the operative complaint, the opposition brief shall be filed within thirty (30) days of that
10 motion, with the reply brief filed thirty (30) days thereafter, unless otherwise agreed upon by the
11 parties.

12 13. Counsel for the parties shall notify their clients of their document preservation
13 obligations pursuant to federal securities laws and the Local Rules.

INITIAL CASE MANAGEMENT CONFERENCE

14. The Initial Case Management Conference scheduled for April 21, 2009, is hereby
15 taken off calendar to permit the parties to comply with the requirements of the Private Securities
16
17 Litigation Reform Act of 1995.

18 15. Subject to the Court's rescheduling of the Initial Case Management Conference,
19 the parties are not required to complete the procedures required in connection with the Initial
20 Case Management Conference, including exchanging initial disclosures and filing a Rule 26(f)
21 Report and Joint Case Management Conference Statement.

REMOVAL OF CASE FROM ADR MULTI-OPTION PROGRAM

23 16. This case is hereby removed from the Alternative Dispute Resolution (“ADR”)
24 Multi-Option Program pursuant to ADR L.R. 3-3(c) because the parties do not believe, at this
25 time, that the ADR Multi-Option Program will facilitate resolution of the matter.

26 17. The parties will discuss ADR options as appropriate on an ongoing basis over the
27 course of this litigation, and in the event that the parties elect to pursue ADR options, will contact
28 the Court to provide updates and/or seek guidance as such efforts proceed.

1
2 O'MELVENY & MYERS LLP
3

4 Dated: March 11, 2009

5 By: _____ /s/
6 Meredith N. Landy
7

8 Attorneys for Defendants Rackable Systems, Inc.,
9 Thomas K. Barton and Madhu Ranganathan
10

11 GLANCY BINKOW & GOLDBERG LLP
12

13 Dated: March 11, 2009

14 By: _____ /s/
15 Lionel Z. Glancy
16 Michael Goldberg
17

18 Attorneys for Plaintiff Gerald Dull
19

20 I, Meredith N. Landy, am the ECF User whose ID and password are being used to file this
21 Stipulation and [Proposed] Order Regarding Scheduling and Related Matters. In compliance with
22 General Order 45, X.B., I hereby attest that Lionel Z. Glancy has concurred in this filing.
23

24 By: _____ /s/
25 Meredith N. Landy
26

27 **O R D E R**
28

29 PURSUANT TO STIPULATION, IT IS SO ORDERED, EXCEPT THAT A CASE
30 MANAGEMENT CONFERENCE WILL BE HELD ON OCTOBER 20, 2009, AT 2:00
31 P.M., IF NO OTHER DATES HAVE PREVIOUSLY BEEN SET.
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33 3/13

34 DATED: _____, 2009
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38 The Honorable Claudia Wilken
39 United States District Judge
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